IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

COMPANY APPLICATION NO.628 OF 2006
IN
COMPANY PETITION NO.41 OF 1986

Godfery Philips India Ltd. ...Petitioner.
Vs.
Machinery Manufacturers Corporation Ltd.
(In Liqn.) ...Respondent.
And
Industrial Development Bank of India Ltd. ...Applicant.

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Ms.M. S. Wadia i/b. Prgna Thakkar for the Petitioner.
Mrs. K.V. Gautam, Dy.Official Liquidator present.

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CORAM :DR.D.Y.CHANDRACHUD, J.
April 12, 2007.

P.C.:

IDBI Ltd. which is a secured creditor, has preferred an application seeking the following relief :

> "a) The Hon'ble Court be pleased to direct the Official Liquidator of the Company to reimburse of expenses incurred by the Applicant to the extent of Rs.78,46,836/- out of the sale proceeds of the assets of the Company in accordance with law;
>
> b) The Hon'ble Court be pleased to direct the Official Liquidator of the Company to distribute by way of interim dividend its pro-rata share out of the proceeds of sale lying with the Official Liquidator."

In pursuance of the orders passed by this Court, the Official Liquidator has verified the position and placed an affidavit in reply

dated 12th April 2007 on record. The claim of IDBI is to reimburse the security expenses and charges incurred. The second relief is for the distribution of an interim dividend.

In the table contained in the affidavit in reply, the Official Liquidator has drawn to the notice of the Court that the total amount of expenses incurred by the IDBI is Rs.1,36,40,207/-. Out of this, an amount of Rs.1,04,69,829/- was deposited with the Official Liquidator, while Rs.26,56,439/- was directly paid by the applicant to the Oriental Insurance Co. Ltd. The applicant has already received an amount of Rs.57,93,369/- from other financial institutions. Consequently, the amount which is claimed is Rs.78,46,838/-. The Official Liquidator has found upon due verification that out of the said claim an amount of Rs.73,32,899/- has been duly verified and found to be due and payable to IDBI on account of security charges and expenses. However, for an amount of Rs.5,13,939/- no documents have been submitted by the applicant. Counsel appearing on behalf of the Applicant stated that since the matter is quite old, it is not possible for the applicant to produce any further documents. In these circumstances, since the claim of the applicant has been duly verified on the basis of the

documentary evidence and an amount of Rs.73,32,899/- is found to be due and payable, the Company Application is allowed in terms of prayer clause (a) only to the aforesaid extent.

In so far as the payment of the interim dividend is concerned, the claims are yet to be investigated by the Official Liquidator. The Liquidator is directed to expedite that process. The Company Application is accordingly disposed of.

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